

DECISIONS PER CURIAM, FROM OCTOBER 3, 1927, TO AND INCLUDING JANUARY 3, 1928, OTHER THAN DECISIONS ON PETITIONS FOR WRITS OF CERTIORARI.

No. 101. BOARD OF PUBLIC UTILITY COMMISSIONERS *v.* MIDDLESEX WATER COMPANY. Appeal from the District Court of the United States for the District of New Jersey. Motion to dismiss submitted October 3, 1927. Decided October 10, 1927. *Per Curiam*. Motion to dismiss granted on the authority of *Smith v. Wilson*, 273 U. S. 388. *Mr. Frank Bergen* for appellee in support of the motion. *Messrs. Thomas Brown and A. M. Barber* for appellant in opposition thereto.

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No. 253. B. S. WHEELER AND M. S. GALASSO *v.* GALEN D. PUE. Error to the Supreme Court of the State of Montana. Motion to dismiss submitted October 3, 1927. Decided October 10, 1927. *Per Curiam*. Motion to dismiss granted under § 237 of the Judicial Code, as amended by the act of February 13, 1925 (43 Stat. 936, 937), for lack of jurisdiction. Treating the writ of error as an application for certiorari, the certiorari is denied under the authority of *Taubel, etc., Co. v. Fox*, 264 U. S. 426, 429; *Liberty Bank v. Bear*, 265 U. S. 365, 369. *Mr. H. L. Maury* for defendant in error in support of the motion. *Mr. James H. Baldwin* for plaintiff in error in opposition thereto.

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No. 276. COUNTY OF DELAWARE, PENNSYLVANIA, *v.* UNITED STATES SHIPPING BOARD EMERGENCY FLEET CORPORATION; and

No. 277. SCHOOL DISTRICT OF TINICUM TOWNSHIP, PENNSYLVANIA, *v.* UNITED STATES SHIPPING BOARD EMERGENCY FLEET CORPORATION. Error to the Circuit Court

of Appeals for the Third Circuit. Motion to dismiss submitted October 3, 1927. Decided October 10, 1927. *Per Curiam*. Motion to dismiss granted on the authority of § 237 of the Judicial Code, as amended by the act of February 13, 1925 (43 Stat. 936, 937). *Solicitor General Mitchell* for defendant in error, in support of the motion. *Mr. Donald S. Edmonds* for plaintiff in error, in opposition thereto.

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No. —, original, *EX PARTE TURNER*. October 10, 1927. The motions of *Frank Turner pro se*, for leave to file a petition for a writ of *habeas corpus* in this case and to proceed *in forma pauperis* therein are both denied, with leave to the petitioner to apply to the District Judges for the Northern District of California, or to the Circuit Judges therein for hearing of such petition.

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No. 165. *O. E. HARLIN, NORTA HARLIN, AND THE AMERICAN INVESTMENT COMPANY v. MARY GAGE, COLUMBUS LE FLORE AND LORENA LE FLORE*. Error to the Supreme Court of the State of Oklahoma. October 10, 1927. *Per Curiam*. Writ of error dismissed under § 237 of the Judicial Code, as amended by the act of February 13, 1925 (43 Stat. 936), and, treating the writ of error as an application for a writ of certiorari at the request of the parties, the application for certiorari is denied. *Messrs. Robert M. Rainey and Streeter B. Flynn* for petitioners. *Mr. W. B. Means* for respondents.

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No. 370. *F. H. FULLWOOD v. CITY OF CANTON, OHIO, ET AL.* Error to the Supreme Court of the State of Ohio. Motion submitted October 3, 1927. Decided October 17, 1927. *Per Curiam*. The motion for leave to proceed further herein *in forma pauperis* is denied for the reason that the Court, upon examination of the unprinted

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record, finds that no Federal question is presented, and the writ of error is therefore also dismissed on the authority of *Farrell v. O'Brien*, 199 U. S. 89, 100; *Toop v. Ulysses Land Co.*, 237 U. S. 580, 583; *Piedmont Power and Light Co. v. Town of Graham*, 253 U. S. 193, 195. The costs already incurred herein, by direction of the Court, shall be paid by the Clerk from the special fund in his custody, as provided in the order of October 29, 1926. *Mr. Faber J. Drukenbrod* for plaintiff in error. No appearance for defendants in error.

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No. 157. UNITED STATES *v.* W. A. MCFARLAND AND J. NORRIS MCFARLAND, COPARTNERS. On writ of certiorari to the Circuit Court of Appeals for the Fourth Circuit. October 17, 1927. *Per Curiam*. The decision of this case does not require a decision of the questions which are presented in the petition for certiorari because of which the writ was granted, and the certiorari heretofore granted in this case is therefore revoked upon the authority of *Southern Power Co. v. North Carolina Service Co.*, 263 U. S. 508. *Solicitor General Mitchell* for the United States. *Messrs. Wm. H. Hudgins and Lothrop Withington* for respondents.

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No. 13. REBA FENWICK *v.* OREL J. MYERS, PROSECUTING ATTORNEY, DARKE COUNTY, OHIO. Error to the Supreme Court of the State of Ohio. Submitted October 11, 1927. Decided October 17, 1927. *Per Curiam*. Dismissed for want of jurisdiction for lack of a substantial Federal question on the authority of *Seaboard Air Line Ry. Co. v. Padgett*, 236 U. S. 668, 671; *Farrell v. O'Brien*, 199 U. S. 89, 100; *Toop v. Ulysses Land Co.*, 237 U. S. 580, 583; *Piedmont Power and Light Co. v. Town of Graham*, 253 U. S. 193, 195. *Messrs. George W. Mannix, Jr. and T. A. Billingsley* for plaintiff in error. *Messrs. Edward C. Turner and Orel J. Myers* for defendant in error.

No. 111. RED STAR MOTOR DRIVERS ASSOCIATION ET AL. v. CITY OF DETROIT, JAMES W. INCHES, COMMISSIONER OF POLICE, ET AL. Error to the Supreme Court of the State of Michigan. Argued October 3, 1927. Decided October 17, 1927. *Per Curiam*. Dismissed for want of a substantial Federal question on the authority of *Shulthis v. McDougal*, 225 U. S. 561, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whiteside*, 239 U. S. 144, 147. Mr. Edward N. Barnard, with whom Mr. Reeves T. Strickland was on the brief, for plaintiffs in error. Messrs. Charles P. O'Neil, Charles S. Whitman and Clarence E. Page were on the brief for defendants in error.

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No. 88. J. MELL BROOKS AND BLYTHEVILLE SPECIAL SCHOOL DISTRICT No. 5 v. RALPH KOONCE, STATE TREASURER. Argued October 3, 1927. Decided October 17, 1927. *Per Curiam*. Affirmed on the authority of *Mills County v. Railroad Company*, 107 U. S. 557, 566; *Alabama v. Schmidt*, 232 U. S. 168, 173; *King County v. Seattle School District No. 1*, 263 U. S. 361, 364. Mr. P. A. Lasley, with whom Mr. C. A. Cunningham was on the brief, for plaintiffs in error. Messrs. H. W. Applegate, J. S. Utley and William T. Hammock were on the brief for defendant in error.

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No. 188. SOUTHERN CALIFORNIA EDISON COMPANY v. AMELIA HERMINGHAUS ET AL. On writ of certiorari to the Supreme Court of the State of California. Argued October 6, 1927. Decided October 17, 1927. *Per Curiam*. Dismissed for want of a Federal question on the authority of *Tracy v. Ginzberg*, 205 U. S. 170, 178; *Bonner v. Forman*, 213 U. S. 86, 91; *Central Land Co. v. Laidley*, 159 U. S. 103, 112. Mr. Edward F. Treadwell, with whom Messrs. George E. Trowbridge, Wm. M. Conley and John

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*W. Davis* were on the brief, for petitioner. *Messrs. James F. Peck, Robert Duncan and Annette A. Adams* were on the brief for respondents.

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NO. 44. DUNBAR-DUKATE COMPANY, INCORPORATED, *v.* THE CELESTE SUGAR COMPANY, INCORPORATED. Error to the Supreme Court of the State of Louisiana. Motion to substitute submitted October 10, 1927. Decided October 24, 1927. *Per Curiam*. The motion to substitute party for defendant in error is denied for the reason that the absence of a substantial federal question requires the Court to grant the motion to dismiss on the authority of *Shulthis v. McDougal*, 225 U. S. 561, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whiteside*, 239 U. S. 144, 147. *Messrs. Rush L. Holland, George E. Strong and C. F. Borah* for defendant in error in support of the motion. *Messrs. John Dymond, A. Griffin Levy and James Wilkinson* for plaintiff in error in opposition thereto.

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NO. —, original. EX PARTE MODERN WORKMEN OF THE WORLD AND THE MODERN WORKMEN OF THE WORLD SOCIETY, JOHN B. KINNEN AND SAMUEL J. MASTERS. October 24, 1927. Motion for leave to file petition for writ of *mandamus* herein denied. *Messrs. W. Bissell Thomas, Walter H. Newton and J. K. M. Norton* for petitioners.

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NO. 586. LULU MIGNON MURPHY *v.* EUGENIE R. BIRD, ADMINISTRATRIX, ET AL. On petition for a writ of *certiorari* to the Supreme Court of the State of Louisiana. October 24, 1927. *Per Curiam*. The motion for leave to proceed further herein *in forma pauperis* is denied for the reason that the Court, upon examination of the unprinted record herein submitted, finds that there is no substantial

Federal question presented upon which jurisdiction for certiorari could be based, application for which is therefore also denied on the authority of *Tracy v. Ginzberg*, 205 U. S. 170, 178; *Bonner v. Gorman*, 213 U. S. 86, 91; *Central Land Co. v. Laidley*, 159 U. S. 103, 112. The costs already incurred herein by direction of the Court shall be paid by the clerk from the special fund in his custody as provided in the order of October 29, 1926. *Lulu Mignon Murphy, pro se.* No appearance for respondents.

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NO. 32. JENNIE M. BLAIR, NEE ADAIR, *v.* SAM F. WILKERSON ET AL. Error to the Supreme Court of the State of Oklahoma. Submitted October 13, 1927. Decided October 24, 1927. *Per Curiam.* The writ of error is dismissed on the authority of § 237 of the Judicial Code, as amended by the act of February 13, 1925 (43 Stat. 936, 937), for lack of jurisdiction. Treating the writ of error as an application for certiorari, the certiorari is denied for the reason that, if granted, the case would have to be affirmed on the authority of *Gilcrease v. McCullough*, 249 U. S. 178. *Messrs G. L. Grant, Henry Warrum and E. M. Frye* for plaintiff in error. *Mr. W. A. Chase* for defendants in error.

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NO. 16. PEOPLE OF THE STATE OF NEW YORK, EX REL. INTERNATIONAL BRIDGE COMPANY, *v.* STATE TAX COMMISSION. Error to the Supreme Court of the State of New York. Argued October 13, 1927. Decided October 24, 1927. *Per Curiam.* Affirmed on the authority of *International Bridge Co. v. New York*, 254 U. S. 126. *Mr. S. Fay Carr*, with whom *Mr. Adelbert Moot* was on the brief, for plaintiff in error. *Mr. Herbert A. Hickman*, with whom *Messrs. Albert Ottinger*, Attorney General of New York, and *Frederick C. Rupp* were on the brief, for defendant in error.

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NO. 20. THOMAS W. PHILLIPS, JR., ET AL., SUBSTITUTED FOR OKLAHOMA NATURAL GAS COMPANY, A CORPORATION, v. OKLAHOMA ET AL. Error to the Supreme Court of the State of Oklahoma. Argued October 13, 14, 1927. Decided October 24, 1927. *Per Curiam*. The writ of error is dismissed on the authority of § 237 of the Judicial Code, as amended by the act of February 13, 1925 (43 Stat. 936, 937), for lack of jurisdiction. Treating the writ of error as an application for certiorari, the certiorari is denied for want of a substantial Federal question on the authority of *Shulthis v. McDougal*, 225 U. S. 551, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whiteside*, 239 U. S. 144, 147. Mr. Charles B. Cochran, with whom Messrs. C. B. Ames and Russell G. Lowe were on the brief, for plaintiff in error. Mr. E. S. Ratliff, with whom Messrs. Edwin B. Dabney and George F. Short were on the brief, for defendants in error.

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NO. 21. STATE OF MISSOURI, EX REL. WASHINGTON UNIVERSITY, v. PUBLIC SERVICE COMMISSION OF MISSOURI AND UNION ELECTRIC LIGHT & POWER COMPANY;

NO. 22. SAME v. SAME;

NO. 23. STATE OF MISSOURI, EX REL. ST. LOUIS BREWING ASSOCIATION, v. SAME;

NO. 24. SAME v. SAME;

NO. 25. STATE OF MISSOURI, EX REL. WAINWRIGHT REAL ESTATE COMPANY, v. SAME;

NO. 26. SAME v. SAME; and

NO. 27. STATE OF MISSOURI, EX REL. HOTEL STATLER COMPANY, INC., v. SAME. Error to the Supreme Court of the State of Missouri. Argued October 14, 1927. Decided October 24, 1927. *Per Curiam*. The writs of error are dismissed on the authority of § 237 of the Judicial Code, as amended by the act of February 13, 1925 (43 Stat. 936, 937), for lack of jurisdiction. Treating

the writs of error as applications for certiorari, the applications are denied for want of a substantial federal question on the authority of *Shulthis v. McDougal*, 225 U. S. 561, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whiteside*, 239 U. S. 144, 147. Messrs. Charles M. Polk, Marion C. Early and Charles Nagel for plaintiffs in error. Mr. Theodore Rassieur, with whom Messrs. J. P. Painter and Jerry A. Matthews were on the brief, for defendants in error.

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No. 28. *H. C. HAAS v. L. GREENWALD AND WALTER W. STEVENS*. Error to the Supreme Court of the State of California. Argued October 14, 1927. Decided October 24, 1927. *Per Curiam*. Affirmed on the authority of *Bratton v. Chandler*, 260 U. S. 110, 115. Mr. Jeremiah F. Sullivan for plaintiff in error, submitted. Mr. Nathan W. MacChesney, with whom Mr. Wm. F. Humphrey was on the brief, for defendants in error.

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No. 31. *NEW YORK CENTRAL RAILROAD COMPANY v. WHEELING CAN COMPANY*. On writ of certiorari to the Supreme Court of Appeals of the State of West Virginia. Argued October 14, 1927. Decided October 24, 1927. Reversed on the authority of *United States v. St. Louis, San Francisco and Texas Ry. Co.*, and *United States v. Wabash Ry. Co.*, 270 U. S. 1, 3; and the cause remanded to the said Supreme Court of Appeals for further proceedings. Mr. Joseph R. Curl, with whom Mr. John C. Palmer was on the brief, for petitioner. No appearance for respondent.

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No. 35. *BLOECHER & SCHAAF, INC., ET AL. v. MAYOR AND CITY COUNCIL OF BALTIMORE AND HAMPSON JONES, COMMISSIONER OF HEALTH*. Error to the Court of Appeals of the State of Maryland. Argued October 17, 1927. De-



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cided October 24, 1927. *Per Curiam*. Affirmed on the authority of *Watson v. Maryland*, 218 U. S. 173, 178; *Adams v. Milwaukee*, 228 U. S. 572, 579, 582. Mr. Emory H. Niles, with whom Messrs. Alfred S. Niles and Joseph W. Starlings were on the brief, for plaintiffs in error. Mr. Charles C. Wallace was on the brief for defendants in error.

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NO. 47. COBB BRICK COMPANY *v.* CLARA C. LINDSAY. Error to the Court of Civil Appeals, Third Supreme Judicial District, State of Texas. Submitted October 18, 1927. Decided October 24, 1927. *Per Curiam*. It is now here ordered and adjudged by this Court that the judgment of the Court of Civil Appeals of the State of Texas in this cause be, and the same is hereby, vacated, and this cause be, and the same is hereby, remanded, without costs to either party, to the said Court of Civil Appeals with directions for further proceedings in the light of the decision of the Supreme Court of Texas in *Magnolia Petroleum Co. v. Hamilton*, 283 S. W. 475, and of the decisions of this Court in *Missouri ex rel. Wabash Ry. Co. v. Public Service Commission*, 273 U. S. 126; *Dorchy v. Kansas*, 264 U. S. 286; *Gulf, Colorado & Santa Fe Ry. Co. v. Dennis*, 224 U. S. 503. Messrs. Ellis Douthit and George Thompson, Jr., for plaintiff in error. Messrs. Gillis A. Johnson and R. E. Rouer for defendant in error.

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NO. 45. R. C. BREEN ET AL. *v.* MORTON DENISON HULL ET AL. Error to the Supreme Court of the State of Minnesota. Argued October 19, 1927. Decided October 24, 1927. *Per Curiam*. Dismissed for want of a Federal question on the authority of *Shulthis v. McDougal*, 225 U. S. 561, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whiteside*, 239 U. S. 144, 147. The Chief Justice took no part in the consideration or decision of this case. Mr.

*H. V. Mercer*, with whom *Messrs. H. B. Fryberger* and *Harvey Hoshour* were on the brief, for plaintiffs in error. *Messrs. Frank D. Adams, Elmer F. Blu, George W. Morgan, Nathan L. Miller* and *Kenneth B. Halstead* were on the brief for defendants in error.

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NO. 46. *THOMAS H. DENT, ADMINISTRATOR, v. JAMES S. SWILLEY*. Error to the Court of Civil Appeals, Ninth Supreme Judicial District, State of Texas. Argued October 19, 1927. Decided October 24, 1927. *Per Curiam*. The writ of error is dismissed on the authority of § 237 of the Judicial Code, as amended by the act of February 13, 1925 (43 Stat. 936, 937), for lack of jurisdiction. Treating the writ of error as an application for certiorari, the certiorari is denied for want of a substantial Federal question on the authority of *Tracy v. Ginzberg*, 205 U. S. 170, 178; *Bonner v. Gorman*, 213 U. S. 86, 91; *Central Land Co. v. Laidley*, 159 U. S. 103, 112. *Mr. Wm. L. Houston*, with whom *Messrs. Winford H. Smith, Charles H. Bates* and *Thomas H. Dent, pro se*, were on the brief, for plaintiff in error. *Mr. Thomas B. Dupree* was on the brief for defendant in error.

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NO. 54. *A. W. MELLON, DIRECTOR GENERAL, v. L. E. MCKINLEY*. On writ of certiorari to the Court of Appeals of the State of Kentucky. Argued October 19, 20, 1927. Decided October 24, 1927. *Per Curiam*. The grounds which were presented in the petition for certiorari, because of which the writ was granted, do not prove to have a substantial basis in the record, and the certiorari heretofore granted in this case is therefore vacated upon the authority of *United States v. McFarland, ante*, p. 485; *Southern Power Co. v. North Carolina Service Co.*, 263

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U. S. 508; *Houston Oil Co. v. Goodrich*, 245 U. S. 440. Mr. Ashby M. Warren for petitioner. Mr. Thomas C. Mapother was on the brief for respondent.

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No. 59. *GEORGE D. IVERSON, JR., v. ILLINOIS GLASS COMPANY*. Error to the Court of Appeals of the State of Maryland. Argued October 20, 1927. Decided October 24, 1927. *Per Curiam*. The writ of error is dismissed on the authority of § 237 of the Judicial Code, as amended by the act of February 13, 1925 (43 Stat. 936, 937), for lack of jurisdiction. Treating the writ of error as an application for certiorari, the certiorari is denied for want of a substantial Federal question on the authority of *Tracy v. Ginzberg*, 205 U. S. 170, 178; *Bonner v. Gorman*, 213 U. S. 86, 91; *Central Land Co. v. Laidley*, 159 U. S. 103, 112. Mr. Harry Zoller, Jr., for plaintiff in error. Messrs. G. W. S. Musgrave and John H. Hessey were on the brief for defendant in error.

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No. 61. *MUELLER GRAIN COMPANY v. AMERICAN STATE BANK OF OMAHA, NEBRASKA*. On writ of certiorari to the Circuit Court of Appeals for the Seventh Circuit. Argued October 20, 21, 1927. Decided October 24, 1927. *Per Curiam*. Reversed on the authority of *Fleischman Construction Co. v. United States, use of Forsberg*, 270 U. S. 349, 356; *Law v. United States*, 266 U. S. 494, 496; and the cause remanded to the said Circuit Court of Appeals for further proceedings. Mr. Walter H. Moses, with whom Messrs. Walter Bachrach and Clarence W. Heyl were on the brief, for petitioner. Messrs. Carl Meyer, Henry Russell Platt and David F. Rosenthal for respondents, submitted.

No. 36. MISSOURI-KANSAS-TEXAS RAILROAD COMPANY *v.* TEXAS. On writ of certiorari to the Court of Civil Appeals, Third Supreme Judicial District, State of Texas. Argued October 17, 1927. Decided October 31, 1927. *Per Curiam*. In this case, in which a certiorari was granted, the writ is now vacated for the reason that the grounds advanced for the granting of the writ prove, upon an examination of the record, not to have a substantial basis. *Southern Power Co. v. North Carolina Public Service Co.*, 263 U. S. 508; *Houston Oil Co. v. Goodrich*, 245 U. S. 440; *United States v. McFarland*, *ante*, p. 485.

In this case exception is taken by one of counsel for the respondent to seven pages of a reply brief filed by one of counsel for the petitioner. The matter excepted to is an effort by counsel for the petitioner to minimize and detract from the weight of a supplemental record which the Court permitted to be filed by a recital of correspondence and communications between opposing counsel with an intimation that, contrary to an agreement, no opportunity had been furnished to oppose the filing. Respondent's counsel asks that this brief be stricken from the files as improper. The motion is granted. The supplemental record was filed by order of the Court. No motion was made to have the order revoked or the record stricken off the files. We can not approve of this insinuating and irregular method of reflecting on opposing counsel and on the relevancy and weight of a document which the Court has permitted to be filed. *Mr. Alex H. McKnight*, with whom *Messrs. J. M. Bryson* and *C. C. Huff* were on the brief, for petitioner. *Messrs. Joseph W. Bailey* and *Luther Nickels*, with whom *Messrs. Claude Pollard*, *Dan Moody* and *D. A. Simmons* were on the brief, for respondent.

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No. 72. FORDSON COAL COMPANY *v.* JOHN M. MOORE, SHERIFF. Error to the Court of Appeals of the State of Kentucky. Argued October 27, 1927. Decided October

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31, 1927. *Per Curiam*. The writ of error is dismissed on the authority of § 237 of the Judicial Code, as amended by the act of February 13, 1925 (43 Stat. 936, 937), for lack of jurisdiction. *Jett Bros. Distilling Company v. City of Carrollton*, 252 U. S. 1, 5, 6. Treating the writ of error as an application for certiorari, the certiorari is denied for want of a substantial federal question on the authority of *Shulthis v. McDougal*, 225 U. S. 561, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whiteside*, 239 U. S. 144, 147. Mr. Wallace R. Middleton, with whom Mr. Clifford B. Longley was on the brief, for plaintiff in error. Messrs. Frank E. Daugherty, Attorney General of Kentucky, Gardner K. Byers and Swagar Sherley were on the brief for defendant in error.

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No. 77. GUNDER DRAXTON ET AL. *v.* C. P. FITCH ET AL. Error to the Supreme Court of the State of Minnesota. Argued October 27, 1927. Decided October 31, 1927. *Per Curiam*. Dismissed for want of a substantial federal question on the authority of *Shulthis v. McDougal*, 225 U. S. 561, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whiteside*, 239 U. S. 144, 147. Mr. James Manahan for plaintiffs in error, submitted. Mr. Victor E. Anderson, with whom Messrs. Clifford L. Hilton, Attorney General of Minnesota, and James E. Markham were on the brief, for defendants in error.

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No. 80. E. G. GRIFFIN *v.* GEORGE L. POWERS ET AL. Error to the Supreme Court of the State of Tennessee. Argued October 28, 1927. Decided October 31, 1927. *Per Curiam*. Affirmed on the authority of *Dent v. West Virginia*, 129 U. S. 114, 122; *Douglas v. Noble*, 261 U. S. 165, 169, 170; *Graves v. Minnesota*, 272 U. S. 425, 427. Mr. Carlisle S. Littleton for plaintiff in error. Messrs. John D. Keeble and Scott P. Fitzhugh were on the brief for defendants in error.

No. —, original. EX PARTE CHARLES A. STUTZMAN. November 21, 1927. *Per Curiam*. The motions of *Mr. Charles A. Stutzman* for leave to file a petition for *habeas corpus* in this case and to proceed *in forma pauperis* therein are both denied for the reason that the Court, upon examination of the unprinted petition, and papers accompanying it, finds that there are no grounds upon which the writ of *habeas corpus* can be issued. The costs already incurred herein by direction of the Court shall be paid by the clerk from the special fund in his custody, as provided in the order of October 29, 1926.

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No. 490. MOLLIE TIGER AND BABY CUMSEY, BY C. L. GARBER, ET AL. v. F. S. LOZIER ET AL. On petition for writ of certiorari to the Supreme Court of the State of Oklahoma. November 21, 1927. *Per Curiam*. The petition for certiorari is denied for the reason that the petitioner has failed to comply with section 2 of Rule 35 of the Supreme Court which provides that the "petition shall contain only a summary and short statement of the matter involved and the reasons relied upon for the issuance of the writ," and that the supporting brief must be direct and concise.

The petition for certiorari filed in this case contains no concise statement of the facts, is sixty-six pages long, and purports to set forth forty-seven "Federal Questions Arising in This Case." The petitioner's brief, of seventy-two pages, is prefaced by some twenty pages of "General Propositions of Law," and followed by an appendix of two hundred and ten pages of excerpts from the record. *Mr. Lewis C. Lawson* for petitioners. *Messrs. George S. Ramsey, Alvin Richards and John M. Chick* for respondents.

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No. 497. WARREN E. BROWN ET AL. v. LOUIS H. KRIETMEYER. On petition for writ of certiorari to the Circuit

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Court of Appeals for the Fifth Circuit. November 21, 1927. *Per Curiam*. The petition for certiorari is denied for the reason that the petitioner has failed to comply with section 2 of Rule 35 of the Supreme Court, which provides that the "petition shall contain only a summary and short statement of the matter involved and the reasons relied on for the issuance of the writ," and that the supporting brief must be direct and concise.

The petition for certiorari filed in this case is fifty-one pages long and contains no concise statement of the facts. The brief in support of the petition is seventy-two pages long and is presented separately. Both the petition and the brief have the same appendix, which is ninety pages long, and contains many references to Florida statutes. *Messrs. G. W. L. Smith and Robert F. Cogswell* for petitioners. *Mr. Giles J. Patterson* for respondent.

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No. 558. KUNGLIG JARNVAGSSTYRELSEN, ALSO KNOWN AS THE ROYAL ADMINISTRATION OF THE SWEDISH STATE RAILWAYS, *v.* NATIONAL CITY BANK OF NEW YORK AND DEXTER & CARPENTER, INC.; and

No. 559. SAME *v.* DEXTER & CARPENTER, INC. On petition for writs of certiorari to the Circuit Court of Appeals for the Second Circuit. November 21, 1927. *Per Curiam*. The petition for two writs of certiorari is denied for the reason that the petitioner has failed to comply with section 2 of Rule 35 of the Supreme Court, which provides that the "petition shall contain only a summary and short statement of the matter involved and the reasons relied on for the issuance of the writ," and that the supporting brief must be direct and concise.

The petition filed in this case for the two writs of certiorari is thirty-four pages long, and the petitioner's brief filed in support thereof is one hundred ninety-six pages long, thirty-six pages of which are devoted to a statement

of the facts. *Mr. Gustav Lange, Jr.*, for petitioner. *Messrs. Charles S. Haight and John S. Garver* for respondents.

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NO. 572. *GYPSY OIL COMPANY v. LEO BENNETT ESCOE, A MINOR*, BY O. W. STEPHENS, GUARDIAN. On petition for a writ of certiorari to the Supreme Court of the State of Oklahoma. November 21, 1927. *Per Curiam*. This petition for certiorari to the Supreme Court of the State of Oklahoma is denied.

The application was not made in accordance with § 8 (a), act of February 13, 1925, c. 229, 43 Stat. 936, 940, which provides:

"No writ of error, appeal, or writ of certiorari shall be allowed or entertained unless application therefor be duly made within three months after the entry of such judgment or decree \* \* \*."

The judgment of the Supreme Court was entered March 22, 1927. A timely petition for rehearing was denied June 14, 1927. On June 18, 1927, an application for leave to file a second petition for rehearing was endorsed:

"Leave granted to file—Fred C. Branson, Chief Justice."

"On August 2, 1927, as appears from the minutes, the following proceedings were taken by the court: "

"Gypsy Oil Company v. Escoe, et al. Application for leave to file a second petition for rehearing denied; application for oral argument denied. Fred C. Branson, Chief Justice."

On September 30, 1927, more than three months after denial of the petition for rehearing (June 14), the present petition for certiorari was filed.

The running of the time within which proceedings may be initiated here to bring up judgment or decree for review is suspended by the seasonable filing of a petition for



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rehearing. But it begins to run from the date of denial of such petition and further suspension can not be obtained by the mere presentation of a motion for leave to file a second request for rehearing. *Morse v. United States*, 270 U. S. 151, 153, 154.

If, however, a timely motion for leave to file the second petition is granted, and the petition is actually entertained by the Court, then the time within which application may be made here for certiorari begins to run from the day when the Court denies such second petition. *Messrs. Chester I. Long, George E. Chamberlain, Peter Q. Nyce and James B. Diggs* for petitioner. *Mr. Creekmore Wallace* for respondent.

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No. —, original. IN RE ABRAHAM S. GILBERT. November 21, 1927. It is ordered that the clerk issue a rule returnable Monday, December 12, 1927, addressed to Abraham S. Gilbert, of New York City, member of this bar, which shall direct—

That he make written report to this Court showing what fees or allowances have been paid to him (also when and by whom paid) for services as master in the several causes reviewed here during the October term, 1921, and reported in 259 U. S. 101, under the following titles:

*Newton, as Attorney General of the State of New York, et al., v. Consolidated Gas Company of New York; Same v. New York & Queens Gas Company; Same v. Central Union Gas Company; Same v. Northern Union Gas Company; Same v. New York Mutual Gas Light Company; Same v. Standard Gas Light Company of the City of New York; Same v. New Amsterdam Gas Company; Same v. East River Gas Company of Long Island City.*

That he likewise report whether he has returned or repaid any portion of the fees or allowances received by him as such master, with dates and names of the parties.

That if he has received fees or allowances as master in any of the specified causes exceeding the maximum amount held by us to be permissible, and has not returned or repaid the excess, then he shall show cause why his name ought not to be stricken from the roll of attorneys permitted to practice here and he be punished for contempt or otherwise dealt with as the circumstances may require.

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No. 293. UNITED STATES AND INTERSTATE COMMERCE COMMISSION *v.* THE KANSAS CITY SOUTHERN RAILWAY COMPANY, THE ARKANSAS WESTERN RAILWAY COMPANY, FORT SMITH AND VAN BUREN RAILWAY COMPANY, ET AL. Appeal from the District Court of the United States for the Western District of Missouri. Argued November 22, 1927. Decided November 28, 1927. *Per Curiam*. Reversed and cause remanded to the District Court of the United States for the Western District of Missouri with directions to vacate the injunction decree and dismiss the petition for want of jurisdiction, on the authority of the *United States v. Los Angeles & Salt Lake Railroad Co.*, 273 U. S. 299. *Mr. Blackburn Esterline*, Assistant to the Solicitor General, with whom *Solicitor General Mitchell* and *Messrs. Charles W. Needham* and *Oliver E. Sweet* were on the brief, for appellants. *Mr. Samuel W. Moore*, with whom *Mr. Frank H. Moore* was on the brief, for appellees.

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No. 543. ARTHUR RICH *v.* MICHIGAN. Error to the Supreme Court of the State of Michigan. Argued November 22, 1927. Decided November 28, 1927. *Per Curiam*. Dismissed for want of a substantial federal question on the authority of *Shulthis v. McDougal*, 225 U. S. 561, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whiteside*, 239 U. S. 144, 147. *Messrs. Harry E. Kelly*

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and *Thornton M. Pratt*, with whom *Messrs. Richard S. Doyle* and *Carl H. Zeiss* were on the brief, for plaintiff in error. *Messrs. Wm. W. Potter* and *Wilbur M. Brucker* were on the brief for defendant in error.

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NO. 346. *FINKELSTEIN & KOMMEL v. UNITED STATES*. On writ of certiorari to the Court of Customs Appeals. Argued November 22, 1927. Decided November 28, 1927. *Per Curiam*. Reversed on the authority of *United States v. Fish*, 268 U. S. 607, 612; the decision being that § 489 of the Tariff Act of 1922 (c. 356, 42 Stat. 858, 962; U. S. C., Title 19, § 361) does not forbid the Customs Court to adopt rules of practice permitting the filing of such petitions before liquidation, that it has jurisdiction to consider petitions so filed, and its decision in this case granting the petition was not ineffective for want of jurisdiction. *Mr. Frederick W. Brooks, Jr.*, for petitioners. *Solicitor General Mitchell*, with whom *Mr. Cyril S. Lawrence* was on the brief, for the United States.

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NO. 89. *E. W. BLISS COMPANY v. UNITED STATES*. On writ of certiorari to the Court of Claims. Argued November 29, 1927. Decided November 29, 1927. *Per Curiam*. Judgment reversed and cause remanded to the Court of Claims for further findings. Counsel to enter into a stipulation as to the form of judgment to be entered in the Court of Claims. *Mr. Wm. B. King*, with whom *Messrs. Bynum E. Hinton*, *George A. King* and *George R. Shields* were on the brief, for petitioner. *Solicitor General Mitchell*, with whom *Assistant Attorney General Galloway* and *Messrs. Perry W. Howard* and *Louis R. Mehlinger* were on the brief, for the United States. See *post*, p. 509.

No. 94. MAYOR AND BOARD OF ALDERMEN OF THE CITY OF NATCHEZ *v.* S. B. McNEELY AND MRS. LOUISA McNEELY, ADMINISTRATRIX; and

No. 108. MRS. LOUISA McNEELY, ADMINISTRATRIX, *v.* MAYOR AND BOARD OF ALDERMEN OF THE CITY OF NATCHEZ. Appeals from the Circuit Court of Appeals for the Fifth Circuit. Submitted November 28, 1927. Decided December 5, 1927. *Per Curiam*. Affirmed on the authority of *Mayor and Board of Aldermen of the Town of Vidalia v. McNeely, Administratrix*, and *McNeely, Administratrix, v. Mayor and Board of Aldermen of the Town of Vidalia*, 274 U. S. 630. Mr. John B. Brunini for appellants in No. 94 and appellees in No. 108. Messrs. L. T. Kennedy and Hugh Tullis for appellees in No. 94 and appellant in 108.

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No. 82. COMMERCIAL NATIONAL BANK OF MILES CITY, MONTANA, AND W. M. TURNER, RECEIVER, *v.* CUSTER COUNTY AND JOHN E. DECARLE, COUNTY TREASURER.

No. 83. SAME *v.* SAME; and

No. 84. MILES CITY NATIONAL BANK OF MILES CITY, MONTANA *v.* SAME. Error to the Supreme Court of the State of Montana. Argued November 28, 1927. Decided December 5, 1927. *Per Curiam*. Reversed on the authority of *First National Bank of Hartford v. Hartford*, 273 U. S. 548, 559, 560; *Minnesota v. First National Bank of St. Paul*, 273 U. S. 561, 567, 568. Mr. Charles H. Loud, with whom Messrs. George N. Brown and Lewis J. Wallace were on the brief, for plaintiffs in error. Messrs. Rudolph Nelstead and A. H. Angstman, with whom Mr. L. A. Foot was on the brief, for defendants in error.

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No. 86. COMMERCIAL NATIONAL BANK OF COUNCIL BLUFFS, IOWA, ET AL. *v.* GEORGE A. BURKE, COUNTY AUDITOR, ET AL. Error to the Supreme Court of the State

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of Iowa. Argued November 28, 1927. Decided December 5, 1927. *Per Curiam*. Writ of error is dismissed for want of a final judgment in the highest court of the State as required by § 237 (a) of the Judicial Code, as amended by the act of February 13, 1925 (43 Stat. 936, 937), on the authority of *Haseltine v. Central Bank of Springfield* (No. 1), 183 U. S. 130, 131; *Arnold v. United States*, 263 U. S. 427, 434. *Mr. George S. Wright* for plaintiff in error. *Mr. Charles E. Swanson* was on the brief for defendants in error.

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No. 87. *E. PAUL YASELLI v. GUY D. GOFF*. On writ of certiorari to the Circuit Court of Appeals for the Second Circuit. Argued November 28, 29, 1927. Decided December 5, 1927. *Per Curiam*. Affirmed on the authority of *Bradley v. Fisher*, 13 Wall. 335, 347; *Alzua v. Johnson*, 231 U. S. 106, 111. *Mr. S. Lawrence Miller*, with whom *Messrs. Alfred Circeo* and *E. Paul Yaselli, pro se*, were on the brief, for petitioner. *Messrs. James M. Beck* and *J. Harlin O'Connell*, with whom *Mr. Nathan A. Smyth* was on the brief, for respondent.

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No. 90. *INTERNATIONAL-GREAT NORTHERN RAILROAD COMPANY AND EWING NORWOOD AND A. F. FISHER v. RAILROAD COMMISSION OF TEXAS*. Error to the Court of Civil Appeals, Third Supreme Judicial District, State of Texas. Argued November 29, 1927. Decided December 5, 1927. *Per Curiam*. Affirmed on the authority of *Railroad Commission of California v. Southern Pacific Company*, 264 U. S. 331, 345. *Mr. W. L. Cook*, with whom *Messrs. Frank Andrews* and *Samuel B. Dabney* were on the brief, for plaintiffs in error. *Mr. D. A. Simmons*, with whom *Messrs. Claude Pollard, Charles H. Bates, Dan Moody* and *J. H. Tallichet* were on the brief, for defendants in error.

NO. 91. STANDARD OIL COMPANY AND CLAUDE E. SHAMP v. CITY OF LINCOLN ET AL. Error to the Supreme Court of the State of Nebraska. Argued November 29, 30, 1927. Decided December 5, 1927. *Per Curiam*. Affirmed on the authority of *Jones v. City of Portland*, 245 U. S. 217, 224, 225; *Green v. Frazier*, 253 U. S. 233, 242. Messrs. Wm. H. Herdman and L. A. Flansburg, with whom Mr. Eugene J. Hainer was on the brief, for plaintiffs in error. Mr. C. Petrus Peterson was on the brief for defendants in error.

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NO. 104. MISSOURI-KANSAS-TEXAS RAILROAD COMPANY OF TEXAS v. J. H. KING. On writ of certiorari to the Court of Civil Appeals, 4th Supreme Judicial District, State of Texas. Submitted November 30, 1927. Decided December 5, 1927. *Per Curiam*. Reversed on the authority of *American Railway Express Company v. Daniel*, 269 U. S. 40, 42; *American Railway Express v. Levee*, 263 U. S. 19, 21; *American Railway Express Company v. Lindenburg*, 260 U. S. 584, 592; *Galveston, Harrisburg & San Antonio Railway Company v. Woodbury et al.*, 254 U. S. 357, 360; *Kansas City Southern Railway Company v. Carl*, 227 U. S. 639, 653, 656. Messrs. Alexander H. McKnight, Joseph H. Bryson and Charles C. Huff for petitioner. Mr. C. A. Davies for respondent.

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NO. 93. FRANCIS POWERS, ADMINISTRATOR, AND MAURICE POWERS v. JOSEPH KOMPOSH. Error to the Supreme Court of the State of Montana. Argued November 30, 1927. Decided December 5, 1927. *Per Curiam*. Affirmed on the authority of *Rindge Company v. County of Los Angeles*, 262 U. S. 700, 707, 709; *Mt. Vernon-Woodberry County Duck Company v. Alabama Interstate Power Company*, 240 U. S. 30, 32. Mr. Hugh H. O'Bear,

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with whom *Messrs. Charles A. Douglas, Jo. V. Morgan and Frederick C. Bryan* were on the brief, for plaintiffs in error. *Mr. John G. Skinner* was on the brief for defendant in error.

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NO. 105. FIDELITY & DEPOSIT COMPANY OF MARYLAND *v.* STATE OF NORTH CAROLINA ON THE RELATION OF W. D. SMITH. Error to the Supreme Court of the State of North Carolina. Argued December 1, 1927. Decided December 5, 1927. *Per Curiam*. The writ of error is dismissed for want of a final judgment in the highest court of the State as required by § 237 (a) of the Judicial Code, as amended by the act of February 13, 1925 (43 Stat. 936, 937), on the authority of *Haseltine v. Central Bank of Springfield (No. 1)*, 183 U. S. 130, 131; *Arnold v. United States*, 263 U. S. 427, 434. *Mr. H. G. Hudson*, with whom *Mr. Washington Bowie, Jr.*, was on the brief, for plaintiff in error. *Messrs. A. E. Holton and J. E. Alexander* were on the brief for defendant in error.

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NO. 109. S. S. KRESGE COMPANY *v.* CITY OF DAYTON, OHIO, AND GUSTAV A. NIEHUS, CHIEF INSPECTOR. Error to the Supreme Court of the State of Ohio. Argued December 2, 1927. Decided December 5, 1927. *Per Curiam*. Affirmed on the authority of *St. Louis Poster Advertising Company v. City of St. Louis*, 249 U. S. 269, 274; *Maguire v. Reardon*, 225 U. S. 271, 272; *Walls v. Midland Carbon Company*, 254 U. S. 300, 324. *Mr. J. B. Coolidge*, with whom *Mr. Lee Warren James* was on the brief, for plaintiff in error. *Mr. John B. Harshman* for defendants in error.

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NO. 125. GEORGE WELCH AND JACKOLINE WELCH *v.* WADDELL INVESTMENT COMPANY. Error to the Supreme Court of the State of Oklahoma. Submitted December 2,

1927. Decided December 5, 1927. *Per Curiam*. The writ of error is dismissed on the authority of § 237 of the Judicial Code, as amended by the act of February 13, 1925 (43 Stat. 936, 937), for lack of jurisdiction. *Jett Bros. Distilling Co. v. City of Carrollton*, 252 U. S. 1, 5, 6. Treating the writ of error as an application for certiorari, the certiorari is denied. *Mr. Wm. Neff* for plaintiffs in error. *Mr. B. A. Lewis* for defendant in error.

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No. 134. *I. J. GORDON ET AL. v. W. T. RAWLEIGH COMPANY*. Error to the Supreme Court of the State of Oklahoma. Argued December 9, 1927. Decided December 9, 1927. Dismissed for want of jurisdiction. Writ of certiorari denied. *Mr. Cicero I. Murray*, with whom *Mr. John B. Dudley* was on the brief, for plaintiffs in error. *Mr. Sam K. Sullivan* for defendant in error.

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No. 135. *CHARLES THOMASON, LENA NEILL, SURVIVING WIDOW, ET AL. v. W. T. RAWLEIGH COMPANY*. Error to the Supreme Court of the State of Oklahoma. Argued December 9, 1927. Decided December 9, 1927. Dismissed for want of jurisdiction. Writ of certiorari denied. *Mr. Cicero I. Murray*, with whom *Mr. John B. Dudley* was on the brief, for plaintiffs in error. *Mr. Sam K. Sullivan* for defendant in error.

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No. 138. *F. C. LENTON, H. M. WILSON, AND E. H. RAY v. THE UNION NATIONAL BANK OF MINOT*. Error to the Supreme Court of North Dakota. Argued December 9, 1927. Decided December 9, 1927. Dismissed for want of jurisdiction. Writ of certiorari denied. *Mr. H. L. Halverson*, with whom *Messrs. Spencer Gordon* and *Paul E. Short* were on the brief, for plaintiffs in error. *Messrs. P. A. Nestos* and *Vernon E. Sknersen* for defendant in error.



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NO. 137. JAY A. LARKIN *v.* E. H. PAUGH AND LINCOLN SAFE DEPOSIT COMPANY. Error to the Supreme Court of the State of Nebraska. Argued December 9, 1927. Decided December 9, 1927. *Per Curiam*. Dismissed for want of jurisdiction. Writ of certiorari granted. *Mr. Jay A. Larkin, pro se. Mr. Karl J. Knoepfler* for defendants in error.

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NO. —, original. *EX PARTE* JOSEPH Y. SAUNDERS. December 12, 1927. The petition for a writ of mandamus against R. W. Walker, judge of the Circuit Court of Appeals for the Fifth Circuit, is denied. *Mr. Joseph Y. Saunders, pro se.*

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NO. 98. CHESAPEAKE AND OHIO RAILWAY COMPANY *v.* K. S. LEITCH. On writ of certiorari to the Supreme Court of Appeals of the State of West Virginia. Submitted November 29, 1927. Decided December 12, 1927. *Per Curiam*. The judgment of the Supreme Court of Appeals of the State of West Virginia in this case is affirmed by an equally divided Court. *Mr. Douglas W. Brown* for petitioner. *Messrs. George B. Martin, John H. Holt and Rufus S. Dinkle* for respondent.

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NO. 127. BACON SERVICE CORPORATION *v.* FRED C. HUSS, CAPTAIN OF THE FRESNO COUNTY TRAFFIC SQUAD. Error to the Supreme Court of the State of California. Submitted December 5, 1927. Decided December 12, 1927. *Per Curiam*. The writ of error is dismissed on the authority of § 237 of the Judicial Code as amended by the act of February 13, 1925 (43 Stat. 936, 937), for lack of jurisdiction. *Jett Bros. Distilling Co. v. City of Carrollton*, 252 U. S. 1, 5, 6. Treating the writ of error as an application for certiorari, the certiorari is denied for want of a

substantial Federal question on the authority of *Schmolke v. O'Brien, Chief of Police*, 273 U. S. 646; *Dorchy v. Kansas*, 272 U. S. 306, 308; *Farrell v. O'Brien*, 199 U. S. 89, 100; *Toop v. Ulysses Land Co.*, 237 U. S. 580, 583; *Piedmont Power & Light Co. v. Town of Graham*, 253 U. S. 193, 195; *Seaboard Air Line Ry. v. Padgett*, 236 U. S. 668, 671. *Messrs. Jeremiah F. Sullivan and Theodore M. Stuart* for plaintiff in error. *Messrs. U. S. Webb and Frank L. Guereña* for defendant in error.

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NO. 122. *LEO L. SPEARS v. THE STATE BOARD OF MEDICAL EXAMINERS OF THE STATE OF COLORADO*. Error to the Supreme Court of the State of Colorado. Argued December 6, 1927. Decided December 12, 1927. *Per Curiam*. Dismissed for want of a substantial Federal question on the authority of *Shulthis v. McDougal*, 225 U. S. 561, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whiteside*, 239 U. S. 144, 147. *Mr. Albert L. Voge*, with whom *Mr. Carle Whitehead* was on the brief, for plaintiff in error. *Messrs. Wm. L. Boatright and Charles H. Haines* were on the brief for defendant in error.

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NO. 599. *HENRY HUNTER v. THE STATE OF LOUISIANA*. Error to the Supreme Court of the State of Louisiana. Argued December 6, 1927. Decided December 12, 1927. *Per Curiam*. The judgment of the Supreme Court of the State of Louisiana in this case is affirmed for the reason that, on the record and on the facts, no substantial Federal question is presented. *Shulthis v. McDougal*, 226 U. S. 561, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whiteside*, 239 U. S. 144, 147. *Mr. Lewell C. Butler*, with whom *Mr. E. H. Randolph* was on the brief, for plaintiff in error. *Mr. Aubrey M. Pyburn*, with whom *Messrs. Percy Saint and E. R. Schowalter* were on the brief, for defendant in error.

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No. 81. OWEN P. SMITH ET AL. *v.* COMMONWEALTH OF KENTUCKY, FRANK E. DAUGHERTY, ATTORNEY GENERAL, AND ORIE S. WARE, COMMONWEALTH ATTORNEY. Error to the Court of Appeals of the State of Kentucky. Argued December 7, 8, 1927. Decided December 12, 1927. *Per Curiam*. Affirmed on the authority of *Adams v. City of Milwaukee*, 228 U. S. 572, 581, 583; *Laurel Hill Cemetery v. City and County of San Francisco*, 216 U. S. 358, 365, 366; *Dominion Hotel v. Arizona*, 249 U. S. 265, 268, 269; *Radice v. New York*, 264 U. S. 292, 296, 297. *Mr. A. O. Stanley*, with whom *Mr. Stephens L. Blakely* was on the brief, for plaintiffs in error. *Mr. Orie S. Ware*, with whom *Mr. Frank E. Daugherty* was on the brief, for defendants in error.

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No. 145. WALTER W. PIERCE ET AL. *v.* OBION COMPANY FOR USE, ETC., AND MERCANTILE TRUST COMPANY. Error to the Supreme Court of the State of Tennessee. Argued December 9, 1927. Decided December 12, 1927. *Per Curiam*. Dismissed for want of a substantial Federal question on the authority of *Shulthis v. McDougal*, 225 U. S. 561, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whiteside*, 239 U. S. 144, 147. *Mr. Thos. H. Malone*, with whom *Mr. Wm. H. Swiggart* was on the brief, for plaintiffs in error. *Mr. Charles C. Allen, Jr.*, with whom *Mr. S. A. Mitchell* was on the brief, for defendants in error.

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No. 89. E. W. BLISS COMPANY *v.* UNITED STATES. On writ of certiorari to the Court of Claims. December 12, 1927. *Per Curiam*. The judgment and order entered herein on November 29, 1927, is hereby revoked, and the following is now substituted in its stead:

This Court is of opinion that the Secretary of the Navy had authority to make further contracts to pay the peti-

tioner the increased cost resulting from the wage increases put into effect at the Secretary's instance, in the course of the petitioner's performance of the original contracts, and that the findings of the Court of Claims show that such further contracts were made and were based upon an adequate consideration, consisting of both advantage to the Government and detriment to the petitioner. The findings on other points are not such as to enable this Court finally to dispose of the case. Accordingly the judgment of the Court of Claims is reversed and the cause is remanded to that Court with directions (1) to make further findings (a) as to whether the instruments of release express the actual intention of the parties in respect of a settlement or release of the petitioner's claim for increased cost resulting from putting into effect the increased wages, or whether through mutual mistake, duress, or other sufficient ground for reformation the instruments of release were so drawn and signed that they failed to express the actual intention of the parties in that respect, and (b) as to what amount of increased cost to the petitioner resulted from the wage increases as respects work done under the original contracts after the wage increases took effect; (2) to make these findings from the evidence already taken and any additional evidence which the Court of Claims may deem it proper to receive; (3) to allow any amendments of the pleadings which may be needed to present the question whether the instruments of release should be reformed to express the actual intention of the parties in the particular herein named; and (4) to render such judgment in the cause as may be appropriate in view of the amended pleadings and the supplemented findings.

The mandate herein shall issue forthwith. *Messrs. Bynum E. Hinton, George A. King, Wm. B. King and George R. Shields* for petitioner. *Solicitor General Mitchell, Assistant Attorney General Galloway* and

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*Messrs. Perry W. Howard and Louis F. Mehlinger* for the United States.

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No. —, original. COLORADO *v.* KANSAS. January 3, 1928. The motion for leave to file bill of complaint is granted and process ordered to issue returnable on Monday, February 20, 1928. *Mr. Wm. L. Boatright*, Attorney General of Colorado, for complainant.

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PETITIONS FOR CERTIORARI GRANTED, FROM  
OCTOBER 3, 1927, TO AND INCLUDING JANU-  
ARY 3, 1928.

No. 252. MRS. L. E. WILLIAMS, INDIVIDUALLY AND NATURAL TUTRIX, *v.* GREAT SOUTHERN LUMBER COMPANY. October 10, 1927. Petition for a writ of certiorari to the Circuit Court of Appeals for the Fifth Circuit granted. *Mr. W. J. Waguespack* for petitioner. *Mr. Generes Dufour* for respondent.

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No. 258. COMMERCIAL CREDIT COMPANY *v.* UNITED STATES. October 10, 1927. Petition for a writ of certiorari to the Circuit Court of Appeals for the Ninth Circuit granted. *Mr. Duane R. Dills* for petitioner. *Solicitor General Mitchell*, *Assistant Attorney General Wilbrandt* and *Mr. Mahlon D. Kiefer* for the United States.

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No. 260. CITY OF NEW BRUNSWICK, WILLIAM G. HOWELL, TREASURER OF THE CITY OF NEW BRUNSWICK, ET AL. *v.* UNITED STATES AND UNITED STATES HOUSING CORPORATION. October 10, 1927. Petition for a writ of certiorari to the Circuit Court of Appeals for the Third Circuit granted. *Messrs. John W. Davis and Edward L.*